REMARKS

Reconsideration of this application and the rejection of claims 1-11, 13 and 15-22 are respectfully requested. Applicants have attempted to address every objection and ground for rejection in the Office Action dated January 16, 2007 (Paper No. 20070105), which has been made Final, and believe the application is now in condition for allowance, or alternatively, in better form for an appeal. The claims have been amended to more clearly describe the present invention.

Applicants acknowledge that the listing of references in the Search Report is not considered to be an Information Disclosure Statement under 37 C.F.R. §1.98. Accordingly, Applicants herewith submit a proper Information Disclosure Statement in compliance with 37 C.F.R. §1.98, and respectfully request consideration of the cited references.

Claim 4 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite, because the limitation "the sleeve" lacks sufficient antecedent basis. Accordingly, Applicants have amended claim 4 to depend from claim 3 and to provide proper antecedent basis to "the sleeve," and respectfully submit that as amended, claim 4 is in allowable form.

Claims 1-2, 6-7, 13 and 15-21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Flower (U.S. Pat. No. 3,520,300). Flower discloses a surgical sponge and suction device 20 having a tubular handle member

24 extending from a head member 22 having a lower perforated plate 28 secured thereto, the plate having a plurality of apertures 30. The plate 28 is attached to an absorbent member 32. (FIG. 2, Col. 2, ll. 11-24).

In contrast, amended claim 1 now recites, among other things, "...wherein the device is arranged to transmit said supply of gas through the porous body to create a protective gas atmosphere in the area, the device includes an attachment member, which includes a first surface and a second surface and a continuous channel extending through the second and first surfaces, respectively, wherein the porous body is attached to said first surface and wherein the outlet end is connected to the attachment member for transmitting said supply in a direction through said outlet end, said channel and said porous body, respectively, for creating said protective gas atmosphere."

Claim 20 has also been amended and now recites, among other things, "...an attachment member connected to said outlet end and including a first surface, a second surface located opposite said first surface, and a centrally located continuous channel configured for receiving said supply conduit and extending through both said second and first surfaces, respectively; and a porous body provided at said outlet end...the porous body being in direct fluid communication with said supply conduit and arranged to transmit the supply of gas in a direction through the outlet end, the channel and the porous body, respectively, for creating a protective gas atmosphere in the area.."

Applicants submit that as amended, claims 1 and 20 are patentably distinct from Flower. Specifically, in Flower, the channel defined by the head or attachment member 22 is not continuous, as recited in amended claims 1 and 20. Rather, in Flower, the conduit 24 is inserted into the channel defined by the head member 22 and extends into a cavity formed by the head member and the plate 28. A plurality of second and separately defined channels 30 extend through the plate 28 and are in direct communication with the porous body 32. (FIG. 2). Accordingly, Flower fails to disclose or suggest a continuous channel that extends through both the head member 22 (designated as the first surface by the Examiner), and the plate 28 (designated as the second surface by the Examiner). Also, in Flower, the channel defined by the head member 22 is not centrally located, as recited in amended claim 20.

Applicants further submit that in Flower, a suction device is provided, and accordingly, air is sucked from the porous body 32, through the channel 30, and up through the outlet end of the conduit 24 to a trap 50. Accordingly, Applicants submit that in Flower, the outlet end of the conduit 24 (located adjacent the adapter 34) is not connected to the head or attachment member 22, as recited in amended claims 1 and 20. Further, amended claims 1 and 20 recite providing a supply of gas in a direction through the outlet end, the channel and the porous body, respectively, for creating the protective gas atmosphere. In other words, amended claims 1 and 20 recite supplying gas through a porous body rather than suctioning gas from the porous body.

Therefore, Applicants respectfully traverse the rejection of claims 1-2, 6-7, 13 and 15-21.

Claims 1-6, 13, 15 and 17-22 stand rejected under 35 U.S.C. §102(b) as being anticipated by Heaton et al. (WO 99/13793). Heaton discloses a suction head including a flange portion 30 having a side intended for contact with a patient's skin, where a series of projections 32 project from that side to provide fluid channels 33 between the projections. The suction head further includes a connector 35 located above an aperture 34 provided on the flange portion 30 and having a tubular end 36 adapted for receiving a catheter. (FIGs. 5-7; p. 7, ll. 14-25). A foam body or sponge 73 is attached to the projections 32. (FIG. 7).

In contrast, amended claim 1 now recites, among other things, "...a continuous channel extending through the second and first surfaces, respectively, wherein the porous body is attached to said first surface and wherein the outlet end is connected to the attachment member for transmitting said supply in a direction through said outlet end, said channel and said porous body, respectively, for creating said protective gas atmosphere."

Claim 20 has also been amended and now recites, among other things, "...an attachment member connected to said outlet end and including a first surface, a second surface located opposite said first surface, and a centrally located continuous channel configured for receiving said supply conduit and extending through both said second and first surfaces, respectively...the porous body being in direct fluid communication with said supply conduit and arranged to transmit the

supply of gas in a direction through the outlet end, the channel and the porous body, respectively, for creating a protective gas atmosphere in the area."

Claim 22 has been similarly amended and now recites, among other things, "...a sleeve surrounding said conduit and directly projecting from said second surface; and a continuous channel extending through said sleeve and said second and first surfaces, respectively; and a porous body projecting from said first surface in a direction opposite from said sleeve, said porous body having at least twice the thickness of said attachment member; wherein said porous body is in direct fluid communication with said outlet end to transmit the supply of gas in a direction through said outlet end, said channel and said porous body, respectively, for creating a protective gas atmosphere in the area."

Applicants submit that as amended, claims 1, 20 and 22 are patentably distinct over Heaton. Specifically, Applicants submit that in Heaton, the tubular end 36 (designated the sleeve by the Examiner) does not directly project from the flange portion 30 (designated the second surface by the Examiner), as recited in amended claim 22. Rather, the tubular end 36 is merely the end portion of the connector 35, and is not a sleeve directly projecting from the flange portion 30.

Also, Applicants submit that in Heaton, the connector 35 (designated the attachment member by the Examiner) does not include a continuous channel that extends through the tubular end 36 (designated the sleeve by the Examiner) and the projections and flange portion 32, 30 (designated the first and second

surfaces, respectively, by the Examiner). Rather, in Heaton, the channel extends through the tubular end 36, the connector 35 and the flange portion 30, but does not extend through the projections 32, as recited in amended claims 1, 20 and 22. The projections 32 are solidly formed and provided outside of the channel. Although fluid channels 33 are provided between the projections 32, they are not continuous with the channel defined by the flange portion 30 and connector 35, and do not extend through the projections.

Further, in Heaton, the catheter or supply conduit 106 is attached to the tubular end 36 of the connector 35, but does not include an outlet end in direct communication with the porous body 73, as recited in amended claim 22. Also, in Heaton, the attachment member or connector 35 is not connected to the outlet end of the conduit 106, as recited in amended claims 1 and 20. Rather, in Heaton, the outlet end of the supply conduit/catheter 106 is in direct communication with and attached to the suction source or pump (not shown).

In addition, the porous body 73 in Heaton is not at least twice the thickness of the attachment member 35, as recited in amended claim 22. Applicant submits that modifying Heaton to increase the thickness of the porous body 73 relative to the attachment member 35 would render Heaton inoperable for its intended purpose. Specifically, the porous body 73 in Heaton needs to be thick enough to efficiently absorb fluid from a wound, and thin enough to fit within a surgical drape and be easily worn by a user without inhibiting movement. The attachment member or connector 35 must be thick enough to securely receive the

supply conduit. Accordingly, modifying the thicknesses of the porous body 73 and attachment member or connector 35 in Heaton to obtain the presently claimed structure would require sufficient reconstruction and render the device inoperable for its intended purpose as a mobile suction device.

Finally, Heaton discloses a suction device, where fluid from the wound is suctioned from the porous body 74, through the flange portion 30 and connector 35 and out of the conduit to a pump (not shown). In contrast, amended claims 1, 20 and 22 recite supplying gas in a direction through the outlet end, the attachment member and the porous body, respectively, for creating the protective gas atmosphere. In other words, Heaton suctions fluid from the porous body, whereas amended claims 1, 20 and 22 recite passing air through the porous body. Accordingly, Applicants respectfully traverse the rejection of claims 1-6, 13, 15 and 17-22.

Claims 8-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Flower or Heaton, in view of Heimlich (U.S. Pat. No. 3,672,372). The arguments made above traversing Flower and Heaton are reasserted here. Heimlich discloses a catheter with a deformable wire stiffening means 36 to avoid kinking in the catheter.

Applicants submit that none of the cited references, either alone or in combination, disclose or suggest all of the features recited in amended claim 1, from which claims 8-11 depend. Specifically, none of Flower, Heaton or Heimlich, either alone or in combination, disclose or suggest a continuous channel

extending through both the second and first attachment member surfaces, respectively, the attachment member connected to the outlet end, or supplying gas through the outlet end, the channel and the porous body, as recited in amended claim 1. Rather, the cited references disclose suction devices.

Further, Applicants submit that Heimlich discloses a urinary drainage method, which relates to a nonanalogous art that is distinguishable from the above-identified application. Indeed, Heimlich fails to recognize the need identified in the present application and recited in amended claim 1, which is to "create a protecting gas atmosphere" in the surgical area by supplying "gas in a direction through the outlet end, the channel and the porous body, respectively, for creating said protective gas atmosphere."

Further, there is no motivation or incentive to modify the references as suggested by the Examiner, because the surgical suction devices disclosed in Flower and Heaton are nonanalogous to the urinary drainage method disclosed in Heimlich. Accordingly, Applicants contend that it would not have been obvious to one of ordinary skill in the art to combine and modify the references as suggested by the Examiner.

In view of the above amendments and remarks, the application is respectfully submitted to be in allowable form, or alternatively, in better form for an appeal. Allowance of the rejected claims is respectfully requested. Should the Examiner discover there are remaining issues which may be resolved by a

telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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